Supreme Court, U. S.
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IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1974

No. 75-95

STATE OF TENNESSEE; WINFIELD DUNN, as Governor of the State of Tennessee and Commander-in-Chief of the National Guard of the State of Tennessee; TENNESSEE AIR NATIONAL GUARD; TENNESSEE AIR NATIONAL GUARD, 134th Air Refueling Group (TAC); MAJOR GENERAL WILLIAM C. SMITH, as Adjutant General of the National Guard of the State of Tennessee; COLONEL ROBERT W. AKIN, as Commander of the 134th Air Refueling Group; LIEUTENANT COLONEL DAVID L. CARTER, as Commander of the 134th Combat Support Squadron; LIEUTENANT COLONEL BOB ARR, as Commander of the 151st Air Refueling Squadron; LIEUTENANT COLONEL WILLIAM D. ASBURY, as Commander of the 134th Supply Squadron; LIEUTENANT COLONEL THOMAS P. WEBB, III, as Commander of the 134th Camron Squadron; and LIEUTENANT COLONEL MARSHALL C. PEIRCE, as 134th Director of Operations,
Petitioners,

v.

BILLY DON DUNLAP,
Respondent.

ON PETITION FOR A WRIT OF CERTIORARI
To the United States Court of Appeals for the Sixth Circuit

RESPONDENT'S BRIEF IN OPPOSITION

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The Respondent respectfully prays that a Writ of Certiorari be denied to review the judgment of the United States Court of Appeals for the Sixth Circuit in the instant case.

OPINIONS BELOW

The opinion of the Court of Appeals for the Sixth Circuit and memorandum opinion of the United States District Court for the Eastern District of Tennessee are appended to the Petition for a Writ of Certiorari. The opinion of the Court of Appeals was entered on April 17, 1975.

JURISDICTION

Respondent does not question the jurisdiction as set forth in the Petition.

QUESTION PRESENTED

Respondent is of the opinion that the Petitioners' brief misstates the issue sought to be reviewed. The issue presented for determination is whether or not a federal court may review a military commander's decision to deny a request for re-enlistment when the complaint, filed in the cause, sets forth allegations that the decision was made for other than military reasons and did not involve an application of military expertise.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Respondent agrees with the constitutional and statutory provisions involved as set forth in the Petitioners' brief, however, the Respondent would add the following statutory provision for consideration.

32 U.S.C.A. §709(e)(3) (Supp. 1974) provides:

> (3) a technician may, at any time, be separated from his technician employment for cause by the adjutant general of the jurisdiction concerned.

STATEMENT OF THE CASE

Petitioners' statement of the case is inaccurate insofar as it pertains to the relief sought by the Respondent, Billy Don Dunlap, in his complaint filed in the Federal District Court. The complaint sought a judgment declaring the discretion or prerogative allegedly vested in a commander, to decide whether or not it is in the best interest of the Air National Guard to allow a member to re-enlist, as it was used against the Respondent in the instant case, to be so vague and lacking in ascertainable standards or criteria to guide or guage the commander's decision as to be unconstitutional and thereby to have constituted a deprivation of the Respondent's right to due process. The complaint further sought to enjoin the Petitioners from pursuing any action against the Respondent which would be discriminatory in nature or constitute a deprivation of his rights, privileges or immunities.

Respondent respectfully makes the following additions to the Petitioners' statement of the case. The Respondent was originally informed that his commander, in the exercise of his discretion or prerogative, had decided that it was not in the best interest of the Tennessee Air National Guard to allow his re-enlistment. Thereafter, Respondent continued in his efforts to effect his re-enlistment. Respondent's commander convened a board of officers to consider whether or not the

Respondent should be allowed to re-enlist. Although the Respondent requested to be allowed to appear before the board, for the purpose of receiving a fair and impartial hearing, and further requested that he be supplied a copy of any charges or statements made against him, both requests were denied by the Petitioners.

Respondent's complaint alleged that the action taken by his commander and the board of officers was purposeful and intentional action that was calculated to result in effecting the Respondent's discharge from his technician's job with the Tennessee Air National Guard and would place the Respondent in such a position as would frustrate or deny any opportunity for him to effectively pursue an administrative remedy. The complaint further alleged that the Respondent's commander's action was arbitrary, capricious, unreasonable and amounted to an abuse or misuse of his allegedly vested discretion or prerogative and that the commander's and board of officers' action was discriminatory in nature and thereby resulted in a deprivation of certain of the Respondent's rights, privileges and immunities. As a result of the action taken by the Respondent's commander and the board of officers, which action culminated in the Respondent's loss of his membership in the Tennessee Air National Guard and his technician's employment therewith, the Respondent filed this action on January 11, 1974. The Petitioners responded by filing a motion to dismiss and alternate motion for summary judgment to which the Respondent filed a response. (Appendix A)

The Respondent accepts the remainder of the Petitioners' statement of the case as being substantially correct.

REASON FOR DENYING THE WRIT

The decision of the Court of Appeals was based on a sound judicial appraisal of the record and all relevant facts involved in this cause. Contrary to the Petitioners' position, the Court of Appeal's opinion was not a departure from the accepted and usual standard of review of military decisions but was in strict conformity therewith and was reiterative of the same. Therefore, if the decision of the Sixth Circuit is allowed to stand, it would not result in an increased potential of review of military decisions.

ARGUMENT

The Respondent is cognizant that there has been a historical reluctance on the part of the courts to review the actions and decisions of the military. However, this reluctance to review has been primarily directed toward military matters requiring military expertise wherein there have been established safeguards for the protection of the individual's constitutional rights, especially the right to procedual due process.

The Court of Appeals, in its decision in the instant case, correctly and aptly noted that the threshold question, for a court in deciding whether the doctrine on nonreviewability of military decisions is applicable in a particular case, must of necessity be directed primarily toward the nature of the decision which a party seeks reviewed and not the mere identity of the decision-maker. The Court further noted that decisions may be outside the boundaries of the doctrine of nonreviewability when they are made for non-military reasons involving no military expertise.

The complaint filed by the Respondent in the Federal District Court contained allegations that the decision, made by the Respondent's commander, not to allow the Respondent to re-enlist, was made for non-military reasons. It is obvious that taking the Respondent's allegations and construing them most favorably to him at this point in the proceedings that they raise a genuine issue as to his interest in continued employment with the Tennessee Air National Guard. *Perry v. Sindermann,* 408 U.S. 593, 92 S. Ct. 2694, 33 L. Ed. 2d 570 (1972).

Inasmuch as our judicial system has provided a remedy for every wrong, this should find no less application to wrongs committed against one who holds a military position, by his superior officers, than wrongs committed against a person holding a purely civilian type of employment.

One who is a member of a military unit, whether it be a regular, reserve, national guard or militia type of unit, does not as a result of this particular type of employment, lose or relinquish his constitutional rights, especially his right to procedural due process. In *Calhoun v. Doster,* 324 F. Supp. 736 (M.D. Ala. 1971), it was held that when a person assumed public employment that they retained all the rights and privileges that they had otherwise been accorded by the United States Constitution.

In *Harmon v. Brucker,* 355 U.S. 579, 78 S. Ct. 433, 2 L. Ed. 2d 503 (1958), it was held that military matters could be reviewed so that a determination could be made as to whether or not the decision made by military authorities was within the scope of statutory and regulatory authority. The Respondent's complaint clearly raised an issue as to whether or not his

commander and the board of officers had acted outside the scope of their statutory and regulatory authority. This issue was presented through the Respondent's allegations that he was refused the right to appear before the board, in order to obtain a fair and impartial hearing and that he was refused a copy of the charges or statements made against before the board and the refusal to inform the Respondent of the reason it was considered not to be in the best interest of the Tennessee Air National Guard to allow his re-enlistment.

Once the Respondent's commander convened the board of officers to hear charges or statements against the Respondent, he became clothed with the right to appear and/or be represented before the board in order to receive a fair and impartial hearing and the right to receive or be informed of the charges or statements to be made against him. These actions were outside the commander's scope of statutory and regulatory authority and constituted arbitrary and unreasonable actions which infringed on and denied the Respondent his constitutional right of procedual due process. Further, the Respondent alleges that his commander's determination, not to allow his re-enlistment, was a mere sham to effect his removal from his technician's employment and frustrate or deny any opportunity for him to effectively pursue an administrative remedy because of the loss of such employment. Therefore, in accordance with *Harmon v. Bucker, supra,* the Respondent's commander's decision is clearly reviewable.

Although the Respondent was a member of the Tennessee Air National Guard and employed as a technician therewith, he retained all rights, privileges and immunities granted and guaranteed to individuals by the United States Constitution and the laws of the

United States, including the right not to be subjected to the arbitrary, unreasonable and unconstitutional actions of his commander and the board of officers and the right to due process and equal protection. The Honorable Justice Douglas in his opinion in *Winters v. United States,* 89 S. Ct. 57, 21 L. Ed. 2d. 80 (1968), held that members of the military are entitled to equal justice under the law as set forth in the Constitution and our Public Laws and not as conceived by the generosity of their commander.

The Respondent further contends that the decision made by his commander is subject to judicial review inasmuch as the Respondent's complaint alleged that the discretion or prerogative allegedly vested in his commander to decide whether or not to allow a member to re-enlist, as it was used against the Respondent to deny his re-enlistment, is so vague and lacking in objective or ascertainable standards or criteria to guide or guage the commander's decision as to be unconstitutional, and therefore constituted arbitrary and unreasonable action which infringed on and denied the Respondent his constitutional rights of due process and equal protection. Also, the Respondent has been unable to discover any statute or regulation which vests his commander with this alleged discretion or prerogative and the Petitioners have totally failed to allege that such a statute or regulation exists and therefore the Respondent entertains serious doubt as to the existence of the same. However, even if this alleged discretion or prerogative exists the Respondent does not contend that this Honorable Court should or could substitute its thinking for that of the commander's, but would assert that there was an abuse, of this alleged discretion or prerogative, which amounted to a denial of the Respondent's rights and that Federal Courts are

empowered with the necessary authority to grant the Respondent relief from this abuse. In *Sterling v. Constantin,* 287 U.S. 378, 53 S. Ct. 190, 77 L.Ed. 375 (1932), it was decided that the allowable limits on military discretion and whether they have been overstepped, in a particular instance, are judicial questions. Furthermore, in *Schatten v. United States,* 419 F. 2d. 187 (6th Cir. 1969) it was held that while it is not for the judiciary to direct the exercise of discretion in a particular way that it is appropriate for the judiciary to require that authorities temper the exercise of their discretion with their own regulations and the laws of the United States. As the Petitioners noted in their brief, the Courts have not been reluctant to grant review where military officials have violated military regulations and where there have been claims of unconstitutionality of statutes, executive orders and regulations. It is clear that the Respondent's allegations have met the criteria heretofore established for the judicial review of military decisions.

As the Petitioners have noted in their brief, the United States Court of Appeals for the Fifth Circuit in the case of *Mindes v. Seaman,* 453 F. 2d 197 (5th Cir. 1971) at page 201, set forth certain factors which should guide a court in deciding whether or not to review military matters. The Fifth Circuit held that as a primary consideration there should be no judicial review of internal military affairs in the absence of an allegation of the deprivation of a constitutional right or a claim that the military violated or failed to follow its own regulations or the applicable statutes. However, the Fifth Circuit went further and stated that a district court, which has been presented with sufficient allegations to meet the primary considerations for review, must examine the substance of the allegations, using certain

factors, in order to make a determination as to whether or not review of the military matters are justified in the particular case. The factors which were indicated were: (1) the nature and strength of the plaintiff's challenge to the military determination, with constitutional claims normally being more important than those having only a statutory or regulatory base, (2) the potential injury that the plaintiff could suffer if review is denied, (3) the type and degree of anticipated interference with the military function if review is granted, however, interference per se is insufficient since there will always be some interference when review is granted, and, (4) the extent to which the exercise of military expertise or discretion is involved.

An application of the factors set forth in *Mindes v. Seaman, supra,* to the allegations in the Respondent's complaint, filed in the District Court, justifiably indicates that there should have been a review of the commander's and the board of officers' actions. The Respondent's complaint alleged both a deprivation of his constitutional rights and a violation, by his commander, of applicable statutes or regulations. The alleged deprivation of the Respondent's constitutional rights were the result of his commander's refusal to allow him to appear and/or be represented before the board of officers for the purpose of receiving a fair and impartial hearing, his commander's refusal to furnish him with a copy of the charges or statements to be made against him before the board and further that the alleged prerogative or discretion vested in the Respondent's commander was unconstitutional inasmuch as it was not particulary delineated. The Respondent alleged that there was a violation of the applicable statutes or regulations, by his commander, inasmuch as the commander's actions were arbitrary, capricious,

unreasonable and an abuse or misuse of his allegedly vested discretion or prerogative and were purposeful and intentional actions that were calculated to result in the Respondent's discharge from his technician's employment. Respondent insists that these allegations are not tenuous of frivolous, but are of such a substantial nature as to demand review.

The Respondent asserts that, as a result of the Petitioners' actions, he has been caused to suffer substantial injury. The Respondent had, until his date of discharge, accrued approximately 17-½ years of creditable time toward the 20 years required for his military retirement benefits. He had a reasonable expectation that he would be allowed to re-enlist and thereby complete the remaining 2-½ years required for him to be entitled to his retirement benefits. The actions of the Petitioners not only deprived the Respondent of these retirement benefits, but it had the result of causing him to lose his technician position with the Air Guard. Additionally, the Respondent's age now presents a hardship in his efforts to provide for his future. Therefore, the potential injury to the Respondent, if review is denied, is of a real and substantial nature.

A review of the commander's action, in this case, would not seriously impede the Air Guard in the performance of its mission and to require the Petitioners to grant the Respondent his constitutional rights to due process and equal protection would result in very little, if any, interference with the military function of the Tennessee Air National Guard. The Petitioners are misguided in the conviction that if the Sixth Circuit's decision, in the instant case, is allowed to stand that it presents the potentiality for tremendous abuse and

would thereby cause much interference with the military function. The Sixth Circuit's decision was in conformity with previous established criteria for judicial review of military matters.

The Respondent does not contend that the judiciary should substitute its judgment for that of his commander, but merely contends that the court should require that the alleged discretion or prerogative be tempered to such an extent so as to not be unreasonable and arbitrary and thereby amount to a denial of the Respondent's constitutional rights. Further, the Respondent's position is that there is no military expertise or discretion involved when, as the Respondent alleged and the Sixth Circuit aptly noted, a decision was made for other than military reasons.

CONCLUSION

For the foregoing reasons, the Respondent respectfully submits that the Petition for a Writ of Certiorari, prayed for by the Petitioners, should be denied.

Respectfully submitted

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APPENDIX

APPENDIX A

In the United States District Court
For the Eastern District of Tennessee

Billy Don Dunlap
Plaintiff
v.
Colonel Robert W. Akin, et al.
Defendants

Civil Action
No. 3-74-15

PLAINTIFF'S REPLY TO THE DEFENDANTS' MEMORANDUM IN SUPPORT OF MOTION TO DISMISS AND ALTERNATIVE MOTION FOR SUMMARY JUDGMENT

The plaintiff, Billy Don Dunlap, has brought this Civil Rights action to redress the deprivation, under color of statute, ordinances, regulations, customs or usages of and pertaining to the Air National Guard of the State of Tennessee, of certain rights, privileges and immunities secured to the plaintiff. The plaintiff complains of the defendants' actions in refusing to allow him to re-enlist in the Tennessee Air National Guard, which action resulted in the termination of his employment as a technician with the Tennessee Air National Guard.

I

The plaintiff did assert that the refusal, of certain officers of the Tennessee Air National Guard, to allow his re-enlistment resulted in his discharge from his civil service employment as a technician.

The plaintiff agrees with the defendants' contention that his employment was not unlike that involved in the case of *Baum v. Zuckert,* 342 F. 2d 145 (6th Cir. 1955) and further agrees that the requirements, that a civilian technician maintain his status as an active member of the local Air Force Training Unit, is both reasonable and legitimate. However, inasmuch as the factual situation in *Baum v. Zuckert* differs greatly from that in the instant case, the plaintiff cannot concede that the *Baum v. Zuckert* case is in any manner either of a controlling nature or pertinent in the present case.

The plaintiff in *Baum v. Zuckert* was given a direct order which he, in a 'belligerent and hostile manner,' refused to obey. Because of his refusal to obey the order, the plaintiff was reassigned to the inactive reserve which resulted in the loss of his civilian technician employment. The Court felt that the plaintiff lost his active membership in the reserve unit 'for reasons within his control' inasmuch as it was within his control to obey the direct order instead of being insubordinate in refusing to obey the same.

In the case at bar, the plaintiff was not allowed to re-enlist at the expiration of his term of service. The plaintiff was not guilty of insubordination and had met all requirements and conditions requisite to re-enlistment. Moreover, the defendants never charged that the plaintiff had failed to meet any conditions for re-enlistment. The plaintiff made numerous requests that the defendants furnish him the reason(s) for their decision not to allow his re-enlistment but he was never informed of the same.

Therefore, it cannot be maintained that the plaintiff failed to meet any of the conditions of re-enlistment 'for reasons within his control.'

While it is true that the plaintiff in *Baum v. Zuckert* had previously resorted to the remedies available to him pursuant to his position as a civilian technician, it is likewise a fact, in the present case, that the plaintiff had pursued the administrative remedy available to him. On or about the 22nd day of January, 1973, the plaintiff filed an appeal, of his termination and refusal of re-enlistment, as provided for under 32 U.S.C. §709(3), with the Adjutant General of the National Guard of the State of Tennessee.

Even if the plaintiff had failed to pursue or exhaust his administrative remedies, it would not constitute a valid basis for dismissal of this action. In the case of *Calhoun v. Doster,* 324 F. Supp. 736, the plaintiff, an active member of a Air National Guard unit and a civilian technician therewith, filed an action for deprivation of rights under 42 U.S.C. §§1983 and 1985. The defendants filed a motion to dismiss alleging as one ground therein that the plaintiff had failed to exhaust his administrative remedies. The Court held:

> "Defendants also contend that plaintiff has failed to exhaust his administrative remedies as set forth in 32 U.S.C. §709(e) and its implementing regulations. Such contention is without merit. A number of Supreme Court decisions have clearly held that a plaintiff bringing a §1983 action need not exhaust his state administrative remedies before seeking redress in the federal courts. (citing cases)
>
> *Calhoun v. Doster,*
> *324 F. Supp. 736, pg. 740*

Therefore, it would not appear that the case at bar has been prematurely initiated by the plaintiff, but is presently both an appropriate and cognizable action for this Court.

II

The defendants' contention that this action requires the joinder of the Secretary of the Air Force, who is empowered by law to promulgate regulations, is ill-founded.

Contrary to the defendants' contention, the plaintiff does not challenge the provisions of 32 U.S.C. §709. The plaintiff readily concedes that the provisions of 32 U.S.C. §709, requiring a person employed as a technician to be an active member of the Guard unit and requiring their separation from technician employment on loss of active Guard membership, are presumptively valid. Even if the plaintiff challenged the provisions of this statute it would not require the joinder of the Secretary of the Air Force.

What the plaintiff challenges is the *alleged* discretion or prerogative vested in the commander, of his unit, to arbitrarily decide whether or not to allow a member to re-enlist, inasmuch as this *alleged* authority is so vague and lacking in objective or ascertainable standards or criteria to guide or gauge the commander's decision. Furthermore, the plaintiff has been totally unable to discover any statute or regulation which vests such authority in the commander and therefore entertains serious doubt as to the existence of the same.

The Air National Guard Regulation 39-10, Paragraph 4, provides as follows:

> "4. *Separation Authority*. The authority to separate members from the Air National Guard rests with the State. The authority to separate members from their Reserve of the Air Force enlistments rests with

> the Secretary of the Air Force, and is delegated to the State adjutant general, as indicated in this regulation, with authority to the commanders of wings, separate groups, or separate squadrons."
>
> *ANG Regulation 39-10, Paragraph 4, Page 3.*

And the Air National Guard Regulation 39-09, Paragraph 1-3, provides:

> 1-3 *Policy:*
> "a. Recruiting and enlistment is the responsibility of the State."
>
> *ANG Regulation 39-09, Paragraph 1-3, Page 1-2:*

The provisions of T.C.A. §7-105, provide that the governor of the State is the commander-in-chief of the military forces, except when they are called into the service of the United States, and as such he is empowered to issue all orders, rules and regulations for the conduct of the Tennessee National Guard.

It is readily clear that the functioning of the Tennessee Air National Guard, including re-enlistments, is administered and controlled on the state level instead of the federal level. Also, as it was indicated in *Calhoun v. Doster* (supra), members of the Guard, in their military capacities, are 'state employees'.

This is further indicative of the fact that the present action does not require the joinder of the Secretary of the Air Force as a party.

The plaintiff further contends that the provisions of Rule 19 of the Federal Rules of Civil Procedure, neither

absolutely require the joinder of the Secretary of the Air Force in this action nor provide an unqualified right of dismissal for the plaintiff's failure to join the Secretary.

III

The defendants' contention, in support of their motion for summary judgment, that the plaintiff's action is barred, by the provisions of T.C.A. §28-304, is without merit.

It is true that the plaintiff complains of the actions of the defendants in improperly refusing to allow him to re-enlist in the Air Guard on December 8, 1972, however, the plaintiff's cause of action extends further inasmuch as the defendants' actions were calculated to culminate in the plaintiff's termination from his technician's job on January 12, 1973. At any time, during the period from the plaintiff's discharge from the Air Guard on December 8, 1972, and his termination as a technician on January 12, 1973, the defendants could have taken appropriate action to rectify the situation and prevent the loss of the plaintiff's technician employment. It was not until the plaintiff was terminated on January 12, 1973, that he had accrued a complete cause of action. Many cases have held that a plaintiff does not have to or cannot bring an action until a complete cause of action has accrued. Although the defendants contend that the plaintiff's termination as a technician came by operation of law, the plaintiff contends that this was the result desired by the defendants and inasmuch as their actions were taken in an effort to reach this desired result, they are bound by the result as if it were their own act.

Even if the defendants' contention, that the plaintiff's cause of action accrued on December 8, 1972, and he would be required to commence his Civil Rights action within one year, was taken as true, it would still not constitute a bar to the plantiff's present action since, as aforementioned, he filed an appeal, of his discharge from the Guard and termination as a technician, with the Adjutant General of the National Guard of the State of Tennessee, on or about the 22nd day of January, 1973, and he received notice from the Adjutant General sometime in April, 1973, that the relief sought in his appeal was denied. This appeal was an administrative remedy provided by 32 U.S.C. §709(e) and of which the plaintiff availed himself. It is well established that the filing of an administrative remedy or appeal operates to toll the running of the statute of limitations. To hold otherwise might result in a person losing their right to a judicial action because of the running of the statute of limitations while they attempted to exhaust their administrative remedies before seeking judicial relief.

Furthermore, the plaintiff would contend that the statute of limitations did not commence to run against his present action on December 8, 1972, inasmuch as the defendants have attempted to conceal material facts from the plaintiff and thereby prevent his discovery of their wrongs and the fact that a cause of action had accrued against them. It was in the latter part of the year 1973 before the plaintiff was able to discover that a possible legal cause of action accrued. The defendants have attempted to conceal the fact that their actions were neither reasonable, justifiable or authorized. The authorities and numerous cases have set forth the rule that the fraudulent concealment of a cause of action by those against whom it lies, from the one whom it belongs, will toll, postpone or suspend the running of the applicable statute of limitations.

CONCLUSION

Therefore, the plaintiff would respectfully insist that he has stated a complete cause of action that is appropriate for adjudication in this Court. That the Court can grant all the relief sought without the joinder of the Secretary of the Air Force and without any prejudice to any of the defendants. The plaintiff further respectfully insists that his action is not barred by any statute of limitations.

Wherefore, the plaintiff respectfully insists that this Honorable Court hold that the defendants' motion to dismiss the complaint and alternative motion for summary judgment are without merit and should therefore be overruled.

Respectfully submitted,
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CERTIFICATE OF SERVICE

I, William Terry Denton, attorney for the Plaintiff, hereby certify that a true and exact copy of the foregoing Reply to the Defendants' Motion to Dismiss and Alternative Motion for Summary Judgment has been mailed this 21st day of February, 1974, to the Honorable Alex B. Shipley, Jr., Assistant Attorney General, Attorney for Defendants, 420 Supreme Court Building, Nashville, Tennessee 37219.

William Terry Denton

APPENDIX B

CERTIFICATE OF SERVICE

I, William Terry Denton, attorney for the Respondent, hereby certify that true and exact copies of the foregoing Brief have been served on the Honorable Alex B. Shipley, Jr., Assistant Attorney General, Attorney for Petitioners, by depositing the same, with the correct postage, in the United States mail, addressed to him at his office at 420 Supreme Court Building, Nashville, Tennessee 37219.

WILLIAM TERRY DENTON